

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GORDON J. WILSON and U.S. POSTAL SERVICE,
POST OFFICE, Lansing, MI

*Docket No. 03-283; Submitted on the Record;
Issued June 13, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established a causal relationship between the claimed emotional condition and the accepted factors of his federal employment.

This is the second appeal in this case. On September 14, 2001 the Board set aside a decision of the Office of Workers' Compensation Programs dated August 25, 2000 denying appellant's claim on the grounds that the evidence of record failed to demonstrate a causal relationship between the claimed emotional condition and the compensable factors of employment. The Board found that the reports from the second opinion psychiatrist, Dr. Jacob Zvirbulis, were insufficient to resolve the issue presented. The case was remanded to the Office for an evaluation by a medical specialist, followed by an appropriate decision. The facts and the circumstances of the case up to that point are set forth in the Board's prior decision and incorporated herein by reference.¹

In the instant case, appellant alleged that he developed a stress condition while performing his federal duties. The Office accepted that appellant's requirement to meet time frames and perform additional work because of a new tray management system (TMS) arose in and out of the course of his regular day-to-day activities and were compensable factors of employment. The Office further accepted that any frustration appellant experienced and reaction in having to relabel the carousel several times were compensable, as well as, the unforeseen variables in the new system which it found arose in and out of the course of his employment. Further the Office accepted that the requirement to work overtime arose in and out of the course of appellant's employment and was a compensable factor of his employment.

¹ Docket No. 01-52 (issued September 14, 2001). The Board notes that the decision and order issued September 14, 2001 contained a typographical error regarding the date of the decision issued by the Office hearing representative, therefore, an erratum was issued by the Board on October 12, 2001, which indicated that the correct date of the decision issued by the Branch of Hearings and Review hearing representative was April 20, 2000.

On remand, the Office referred appellant to Dr. Kameswara Tatineni, a Board-certified psychiatrist and neurologist, who evaluated appellant to determine whether the claimed emotional condition was causally related to the accepted employment factors. He submitted a report dated July 8, 2002, in which he outlined his psychological examination of appellant, diagnosed mood disorder and determined that there was no psychiatric condition found that was related to his employment. Dr. Tatineni released appellant to work.

By decision dated September 17, 2002, the Office denied appellant's emotional condition claim on the grounds that he had not established through the medical evidence that he sustained an emotional condition in the performance of duty.

The Board finds that this case is not in posture for a determination of whether the claimed emotional condition was causally related to the accepted employment factors. Further development is warranted on this issue.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the concept of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.²

In his report dated July 8, 2002, Dr. Tatineni reviewed the medical record, the statement of accepted facts and his examination of appellant. The physician noted that appellant stated:

"I am depressed. I have anger problems. I hate my job. I allowed my present job to drive me nuts. I allowed my present job to mess with my mind. My supervisor has been making too many demands and does not understand my job. I cannot tolerate the abuse from the [employing establishment] and I do n[o]t get any respect from my management. I feel like I am still burned out. Too much pressure. I feel unappreciated. I was bitched out too much at my workplace. I have a lot of other physical worries too. It is affecting my sleep. I cannot concentrate. I cannot think. I feel sad, helpless and depressed."

Dr. Tatineni stated that his mental examination of appellant revealed that he was oriented to time, place and person although his mood was depressed and there was some anxiety present. He diagnosed mood disorder, NOS on Axis I; provided no diagnosis for Axis II; diagnosed history of gastrointestinal discomforts on Axis III; psychosocial stressors and unhappiness in the job environment on Axis IV and GAF 70 on Axis V. Dr. Tatineni opined that appellant was capable of returning to work and performing his functions without restrictions although he was unhappy about continuation in the job environment. He recommended that appellant be prescribed medication for mood fluctuations and see his family physician.

² *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

Dr. Tatineni failed to evaluate the accepted factor of employment as the cause of appellant's emotional condition. He attributed appellant's condition to psychosocial stressors and unhappiness in the job environment. Although appellant was referred for an evaluation of his emotional condition due to the accepted factor of employment, Dr. Tatineni did not discuss that appellant's condition was related to work factors including his requirement to meet time frames and perform additional work because of the new TMS, nor did he relate his condition to any frustration appellant experienced and reaction in having to relabel the carousel several times and deal with the unforeseen variables in the new system. Further, Dr. Tatineni failed to connect appellant's being required to work overtime to his diagnosed emotional condition.

Since the Office sought the opinion of Dr. Tatineni, it has the obligation to secure a report that resolves the issue in the case.³ On remand, the Office should secure a medical report containing a reasoned medical opinion on the relevant issue of causal relationship. After such further development as the Office deems necessary, it should issue an appropriate decision.

The decision of the Office of Workers' Compensation Programs dated September 17, 2002 is hereby set aside and the case is remanded for further development consistent with this opinion.

Dated, Washington, DC
June 13, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

³ See *Mae Z. Hackett*, 34 ECAB 1421, 1426 (1983); see also *Milton Lehr*, 45 ECAB 467 (1994) (where the Board remanded the case to the Office for a medical opinion and the opinion obtained from the attending physician was not sufficient to resolve the issue, the Board found that the Office should obtain a supplemental report from the attending physician curing the deficiency and resolving the issue in the case).